

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 1148 of 1998

JITENDRA PRABHUDAS PRAJAPATI

Versus

STATE OF GUJARAT

Appearance:

MR AM PAREKH Advocate for the petitioner

Ms KN VALIKARIMWALA, APP for Respondent No. 1

CORAM : MR.JUSTICE M.S.PARIKH

Date of Order: 20/06/98

ORAL ORDER below office note dated 4/5/1998 and communication No. Criminal/382 of 1998 dated 27/4/1998 from the learned Sessions Judge, Mehsana (Mr. H.H. Mehta) and his report dated 27/4/1998 :

1. At the out set it might be noted that the learned Sessions Judge Mr. H.H. Mehta was never required by this Court to submit his report in any matter concerning Criminal Misc. Application No. 1148 of 1998. Hence, the report shall have to be taken for consideration as per the grievance voiced by the learned Sessions Judge in the report.

2. The short grievance which appears to have been made by the learned Sessions Judge is with regard to the applicants of Criminal Misc. Application 279 of 1998 pending in the Sessions Court, Mehsana preferring Criminal Misc. Application No. 1148 of 1998 before this Court by suppressing the fact regarding pendency of Criminal Misc. Application No. 279 of 1998. Both the proceedings were for obtaining relief of anticipatory bail.

3. When the matter of the aforesaid report was placed before this Court, this Court passed following order :-

"Notice to the applicants of Misc. Criminal
Application No. 1148/98, returnable on 20/6/98."

In reply to the notice Mr. A.M. Parekh appears. The record of Criminal Misc. Application No. 1148 of 1998 is also placed alongwith the aforesaid report. Mr. A.M. Parekh, learned advocate appearing for the applicants in Criminal Misc. Application No. 1148 of 1998 draws the attention of this Court to the following averments made in the Criminal Misc. Application No. 1148 of 1998. The averments would read as under :-

"9. Under the aforesaid circumstances, now the petitioners were apprehending that they may be likely to be arrested in this case. On 27/2/1998 and on 8/3/1998 the police officer has visited the petitioners' house and inquired about the petitioners. Therefore, the petitioners have filed Misc. Criminal Application No. 279 of 1998 before the learned District Sessions Judge, Mehsana and till today no order has been passed by the learned District Sessions Judge and, therefore, petitioners undertake that they will withdraw the application within one week from today."

4. It would clearly appear from the aforesaid averments that the petitioners of both the Misc. Criminal Applications have not suppressed the fact with regard to pendency of Misc. Criminal Application No. 279 of 1998 before the learned Sessions Judge. Hence it can hardly be said that the petitioners kept this Court in dark with regard to pendency of Criminal Misc. Application No. 279 of 1998 before the Sessions Court at Mehsana. In my opinion the learned Sessions Judge before making the report ought to have called upon the petitioners to supply a true copy of Misc. Criminal Application No. 1148 of 1998 so that the learned Sessions Judge might not have had the occasion to make following observations -

"Therefore, the undersigned is of the humble view that the applicants of Criminal Misc. Application No. 1148/98 of the Hon'ble High Court, kept the Hon'ble High Court in dark with a malafide intention and material facts with regard to Criminal Misc. Application No. 279/98 pending before the Sessions Court were hidden by them so as to get disadvantage from the Hon'ble High

Court. And, therefore, this Report is submitted to the Hon'ble High Court of Gujarat for information and with an humble request to take suitable and appropriate action against the applicants who have in one sense, cheated the Hon'ble High Court."

5. Under the aforesaid circumstances the report of the learned Sessions Judge is directed to be filed with an observation that no action as suggested by him is required to be taken. Notice is accordingly discharged.

Copy of this order be sent to the learned Sessions Judge at Mehsana.

Date : 20/6/1998. [M.S. Parikh,J.]

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